

ATTACHMENT A



UNITED STATES DEPARTMENT OF EDUCATION
Federal Student Aid
School Participation Team-Northwest
111 North Canal Street, Suite 830
Mail Stop Suite 1009
Chicago, Illinois 60606-7204

May 24, 2005

Dr. Karen A. Holbrook
President
The Ohio State University
205 Bricker Hall
190 North Oval Mall
Columbus, OH 43210-1358

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT #7002 2030 0007 8277 3590

PROGRAM REVIEW REPORT
PRCN: 200510523594
OPE ID Number: 00309000

Dear Dr. Holbrook:

On October 18 to 22, 2004, Mr. Herschel D. Wallace III and Ms. Susan Crim of the Chicago School Participation Team conducted a focused program review of The Ohio State University's (OSU's) compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The findings of that review are presented in the enclosed report.

This report contains findings regarding OSU's administration of the Clery Act. The findings of noncompliance include:

1. Inaccurate Statistical Information in Annual Crime Report;
2. Failure to Properly Document and Report Crime Incidents Reported to Authorities; Other than Police;
3. Failure of Crime Log to contain All Required Information; and
4. Untimely Distribution of the Annual Crime Report to Students and Staff.

Findings of noncompliance are referenced to the applicable statutes and regulations and specify the action required to comply with the statutes and regulations. Please review the

report and respond to each finding, indicating the specific corrective actions taken by OSU. Your response should be sent directly to this office within thirty (30) days of the date of this letter.

I would like to express my appreciation for the courtesy and cooperation extended during the review process. Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this report. If you have any questions concerning this report, please call Herschel Wallace at (312) 886-8739.

Sincerely,

John Jaros, Jr.
Team Leader
Chicago School Participation Team

cc: Mr. John J. Biancamano
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Ms. Natala K. Hart
Director, Student Financial Aid
The Ohio State University
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Columbus, Oh 43210-1230

INSTITUTIONAL REVIEW DATA SHEET

DATES OF REVIEW:

October 18-22, 2004

AWARD YEARS REVIEWED: 2001-2002 2002-2003 2003-2004

OPE ID #: 00309000

TIN #: 316025986

PRCN #: 200510523594

TYPE AND CONTROL: Public, Undergraduate and Graduate

ACCREDITATION: North Central Association of Colleges and
Schools

REVIEWING ED OFFICIALS: Herschel Wallace III and Susan Crim

SFA PROGRAM PARTICIPATION:

| | <u>2001-2002</u> | <u>2002-2003</u> | <u>2003-2004</u> |
|------------------------------|------------------|------------------|------------------|
| Federal Pell Grant Program | \$20,634,563.00 | \$23,984,375.00 | \$26,605,095.00 |
| Federal Direct Loan Program | 185,340,078.00 | 205,866,847.00 | 250,380,054.00 |
| Federal SEOG Program | 3,337,748.00 | 3,167,111.00 | 2,208,813.00 |
| Federal Work-Study Program | 4,390,421.00 | 4,296,999.00 | 6,020,003.00 |
| Federal Perkins Loan Program | 6,697,676.00 | 7,396,861.00 | 7,945,594.00 |

FFEL DEFAULT RATE: (1999): 4.3%
 (2000): 3.9%
 (2001): 4.2%

METHOD OF FUNDING: Advance Payment

INSTITUTIONAL OFFICIALS CONTACTED:

Mr. John J. Biancamano, Associate General Counsel
Mr. Vernon L. Baisden, Assistant Vice President and Director, Department of Public Safety
Mr. John R. Kleberg, Special Assistant to the Vice President
Mr. Steve Kremer, Assistant Vice President, Student Affairs, Director of Housing
Mr. Michael D. Layish, Associate Legal Counsel
Mr. John Petry, Chief of Police, Department of Safety
Mr. Rick Amweg, Assistant Chief of Police, Department of Safety
Mr. Patrick J. Hall, J.D., Director, Student Judicial Affairs
Ms. Jenny Klein, Associate Director of Housing, Food Services, Event Center
Ms. Pam Temple, OSU Police Officer

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A. INTRODUCTION

The Ohio State University (OSU) is a large public institution located in Columbus, Ohio. The institution is a comprehensive university offering undergraduate and graduate degrees with the highest educational programs at the doctor's level. The enrollment is about 58,254 students at seven campuses.

The Chicago School Participation Team received a complaint from Security On Campus, Inc. on behalf of a former OSU student alleging OSU's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy And Campus Crime Statistics Act (the Clery Act) in §485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. §1092(f) and the Department's implementing regulations in 34 C.F.R. Section 668.46. After reviewing information regarding the complaint, the Chicago School Participation Team decided to conduct a program review at OSU, focusing on the institution's compliance with Clery Act requirements.

B. SCOPE OF REVIEW

The Chicago School Participation Team conducted a focused program review from October 18 to 22, 2004 to examine the Ohio State University's compliance with the Clery Act. During the program review, the crime logs of the Campus Security Office and the Crime Alerts for the period September 1, 2001 to October 15, 2004 as well as OSU student judiciary procedures and campus safety policies were examined to determine compliance with the Clery Act. In addition, staff in the University's Department of Public Safety, Office of Legal Affairs, Residence Life, and Student Judicial Affairs were interviewed to assess their roles in the administration of the Clery Act and to obtain further information relating to the student complaint. Follow-up interviews of institutional personnel were conducted on December 17, 2004.

During the review, some areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable laws, regulations and policies. The findings specify actions to be taken by the institution to ensure compliance with Clery Act requirements and the harm caused as a result of OSU's noncompliance with Clery Act requirements.

Although the review was thorough, it was not all-inclusive. The absence of statements in this letter concerning some of the institution's specific practices and procedures must not be construed as acceptance, approval or endorsement of these specific policies and procedures. Furthermore, the institution must continue to comply with all statutory or regulatory provisions governing the Clery Act.

C. FINDINGS AND REQUIREMENTS

1. INACCURATE STATISTICAL INFORMATION IN ANNUAL CRIME REPORT

FINDING: In each of the calendar years reviewed, some of the crime statistics reported in the annual campus crime report were inconsistent with the number of incidents reflected in the supporting documentation. Some of the discrepancies resulted in the reporting of more incidents in the crime report than was reflected in the back-up documentation. In other cases, the crime report had lower numbers than reflected in the documentation. For example, for the calendar year 2003 report, OSU listed 84 aggravated assaults occurring on public property, but only 83 were noted in the back-up information provided by OSU. Thus, OSU reported one more incident than was reflected in the back-up documentation. Also in the calendar year 2003 report, OSU listed 165 on-campus burglaries when in fact the back-up documentation reflected that 166 burglaries occurred on-campus. Thus OSU underreported the incidents by one.

In the calendar year 2002 report, OSU reported 4 aggravated assaults on-campus, but the back-up documentation showed that 5 aggravated assaults were reported on-campus during this time frame. As a result, the statistics underreported the incidents by one.

There were three statistical discrepancies in the crime statistics reported for calendar year 2001. The report of on-campus forcible sex offenses listed three incidents occurring on campus (two in the residence halls and one elsewhere on campus). However, the back-up documentation reflected four incidents on-campus (three in the residence halls and one elsewhere on campus), which means that OSU underreported by one incident. When reporting sex offenses on public property during the 2001 calendar year, OSU listed 40 as forcible and seven as non-forcible. Upon review of the back-up documentation it appears that all 47 sex offenses should have been reported as forcible. (Under the Clery Act, the only crimes that are to be reported as non-forcible sexual offenses are incest and statutory rape.) Finally, the calendar year 2001 report reflected 983 public property burglaries, but the back-up documentation showed that 1003 public property burglaries occurred. Thus, OSU underreported this crime category by 20 incidents.

The institution's failure to accurately collect, publish and distribute the required campus security statistics and policies to current and prospective students and employees, constitutes an inability by the institution to properly administer the requirements of the Clery Act because it does not provide current and prospective students and employees of the institution an accurate picture of the overall security of the institution.

REQUIREMENT: An institution is responsible for reporting crime statistics for the three most recent calendar years concerning the occurrence on campus, in or on non-campus buildings or property, and on public property that are reported to local police agencies or to a campus security authority. [34 CFR 668.46(c)(1)]

The Ohio State University must review the discrepancies cited in this finding, determine the correct statistical information, and provide the correct information in its response to this program report. OSU must amend, publish and distribute amended crime statistics for the 2001, 2002, and 2003 calendar years that reflect the corrected information. In addition, OSU must provide assurances that it will accurately publish the required statistical information in future campus security reports.

2. FAILURE TO PROPERLY DOCUMENT AND REPORT CRIME INCIDENTS REPORTED TO AUTHORITIES OTHER THAN POLICE

FINDING: When reporting crime statistics as part of the annual campus security report, OSU reviews the campus police reports and determines which incidents occurred on-campus and which occurred in the residence halls. The statistical report also includes a category entitled "non-verified" that enumerates reports of crime incidents reported to campus security authorities other than the OSU police or municipal police. This category includes reports of crimes reported to other campus security authorities including the Office of Residence Life, the Office of Student Judicial Affairs and the Office of Rape Education and Prevention Programs. While OSU is generally reporting, on a numerical basis, all required incidents, by adding an additional category of reporting, the institution gives at least the appearance that reports of crimes to campus security authorities are accorded less weight than those reported to police.

According to institutional officials, the reason incidents were reported this way is that they cannot determine the geographical location of incidents reported to non-police campus security authorities. OSU must use its best efforts to determine the location of a reported incident and include the incident in the statistics for the appropriate geographical category. If that cannot be done and the incident is reported to a campus security authority, it should treat the incident as an on-campus incident. The institution may then provide footnotes to its statistical reporting that states the source of the incident(s). For example it could say that X number of incidents were reported to campus security authorities and, due to privacy concerns, OSU cannot determine the exact location of the incident so it is reporting it as an on-campus incident. However, this issue could also be addressed by providing better training to campus security authorities to ensure that they know that they need to record the location of incidents reported to them. OSU should only have questions about the geographic location of an incident that is reported to professional or pastoral counselors, where confidentiality in reporting applies.

In addition, OSU did not keep records specifying the source documentation and incidents included in the "non-verified" category. Therefore, reviewers were unable to determine if OSU had correctly accounted for all crime incidents in a particular category. Specifically, the e-mails presented as supporting documentation to the 2003 statistics reflect 22 sexual assaults reported, but only three incidents of "non-verified" forcible sex offenses were included in the 2003 statistics.

The institution's failure to report crime statistics in the manner required constitutes an inability by the institution to properly administer the requirements of the Clery Act.

REQUIREMENT: An institution is responsible for reporting crime statistics concerning the occurrence on campus, in or on non-campus buildings or property, and on public property that are reported to local police agencies or to a campus security authority. The statistics are to be broken down into the following categories: on-campus, number of on-campus crimes occurring in dormitories or other residential facilities for students on campus, in or on a non-campus building or property, or on public property. [34 CFR 668.46 (c)(1) and (4)]

In response to the program review report, OSU must amend, publish and distribute amended crime statistics that reflect the required categories and eliminates the "non-verified" category. In addition, OSU must provide the Department with back-up documentation that details the source(s) of information (i.e., the residence hall CIF number) that support the "non-verified" figures reported in 2001, 2002, and 2003 and must explain the numerical discrepancy regarding "non-verified" sex offenses in 2003. The institution must also provide copies of policies and procedures that explain how source documentation for crime incident reports to authorities other than the police will be kept to show which instances comprise the reported statistics.

3. FAILURE OF CRIME LOG TO CONTAIN ALL REQUIRED INFORMATION

FINDING: The reviewers observed that entries to OSU's daily crime log often did not reflect the date of the reported crime. In a number of cases, the crime log entries only listed the date the crime was reported to OSU police. In addition, the comment section of the log entries did not always give details about the date and location of the crime. Any crime **reported** to campus police or a campus security department, regardless of whether a formal report is filed, must be included as an entry to the daily crime log within two business days of the report of the crime to the police department.

An institution's failure to provide all of the required information as part of its daily crime log constitutes an inability by the institution to properly administer the requirements of the Clery Act.

REQUIREMENT: An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a non-campus building or property, on public property, or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or the campus security department. This log must include the nature, date, time, and general location of each crime; and the disposition of the complaint, if known. [34 CFR 668.46(f)(1)(i) and (ii)]

The Ohio State University is directed to review the cited regulatory requirement, along with those portions of the current Student Financial Aid Handbook relating to campus security procedures, to ensure its crime reporting complies with the stated requirements. With its response to the program review report, OSU must also provide assurances, and a copy of its policies and procedures that demonstrate it has corrected this deficiency.

4. UNTIMELY DISTRIBUTION OF THE ANNUAL CRIME REPORT TO STUDENTS AND STAFF

FINDING: The reviewers observed that OSU sent a notice of the availability of the 2002 campus crime report via the school web site to students on October 9, 2002 and to University staff on October 13, 2002. The notice was, therefore, nine days late to students and 13 days late to University staff. In addition, the reviewers observed that OSU sent a notice of the availability of the 2003 campus crime report via the school web site to University staff on October 16, 2003 and to students on October 16, 2003. The notice was, therefore, 16 days late to University staff and 19 days late to students.

An Institution's failure to timely distribute the required campus security crime statistics and policies to current and prospective students and employees continues an inability by the institution to properly administer the requirements of the Clery Act.

REQUIREMENT: By October 1 of each year, an institution must distribute, to all enrolled students and current employees, its annual security report described in 34 CFR 668.46(b), through appropriate publications and mailings. [34 CFR 668.41(e)(1)]

The Ohio State University is directed to review the cited regulatory requirement, along with those portions of the current Student Financial Aid Handbook relating to campus security procedures, to ensure that its distribution of the required report complies with the stated requirements. With its response to the program review report, OSU must also provide assurances, and a copy of its policies and procedures that demonstrate it has corrected this deficiency.

D. RECOMMENDATIONS FOR COMPLIANCE WITH THE CLERY ACT

a. Informing sexual assault victims of the option to change residence location

As part of its Rape Education and Prevention Program, OSU created a packet of information that it provides to victims of sexual assault. Based on a review of this information, the Department recommends that the packet contain a statement that explains the option of an assault victim to change his/her residence situation, should the victim desire that outcome. Although institutional staff members are trained to provide this information when the assault is reported to them, explanation of this option should also be part of the institution's written resources for sexual assault victims.

b. OSU's timely warning policy

The institution does have a timely warning policy in effect and does carry out this policy. However, the general practice of the institution is that timely warnings are not issued in cases of reported acquaintance rape or other instances of crime where the victim and the accused know each other. Institutional officials reported that in many instances of this type a threat does not exist to students and employees. However, there may be some instances where this type of incident might be more likely to present a threat to others. Thus, the Department recommends that OSU modify its timely warning policy to articulate under what conditions a timely warning might be issued when the victim and accused know each other.

c. Information in campus security report concerning educational programs offered by OSU

In its annual campus security report, OSU refers to educational programs available to students and staff. In order to more fully inform students and staff of the crime prevention, safety, and other educational programs available, the Department recommends that the annual campus security report provide greater descriptions of the educational programs available, or a link to resources where individuals can learn more about the content of OSU's program offerings in this area.

E. REVIEW OF STUDENT COMPLAINT CONCERNS

As noted above, the Chicago School Participation Team's program review at OSU was prompted by a student complaint. The Department's investigation of the complaint did not produce evidence to support any additional administrative action against the institution. General concerns raised in the complaint are addressed in the findings and recommendations of the report. As a result, the Department considers the complaint closed.

ATTACHMENT B



UNITED STATES DEPARTMENT OF EDUCATION

Federal Student Aid
School Participation Team-Northwest
111 North Canal Street, Suite 830
Mail Stop Suite 1009
Chicago, Illinois 60606-7204

November 10, 2005

Dr. Karen A. Holbrook
President
The Ohio State University
205 Bricker Hall
190 North Oval Mall
Columbus, OH 43210-1358

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT #7002 2030 0007 8277 2838

PROGRAM REVIEW REPORT
PRCN: 200510523594
OPE ID Number: 00309000

Dear Dr. Holbrook:

Thank you for your response of July 13, 2005 to the above Program Review Report dated May 24, 2005, concerning The Ohio State University's (OSU's) compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The U.S. Department of Education has reviewed the response and while OSU's response did satisfy Findings 3 and 4, additional information is needed for Findings 1 and 2.

Regarding Finding 1, the Institution was directed to correct the number of on-campus burglaries from 165 to 166 for calendar year 2003 and the number of aggravated assaults from 4 to 5 for calendar year 2002. In addition the Institution was directed to publish and distribute these corrections. A review of OSU's Campus Crime Report for October 1, 2005 shows that this information has not been corrected. Therefore, in response to this letter, OSU is directed to **update** this information, **provide** this office with a copy of the corrected information, and demonstrate that these revised statistics have been distributed to the required recipients of OSU's campus security report.

In regards to Finding 2, the Institution did not provide copies of policies and procedures that explained how source documentation for crime incident reports to authorities other than the campus police will be kept to show which instances comprised the reported statistics. For example, there were e-mails presented as supporting documentation to the 2003 statistics that reflected 22 sexual assaults reported, but only three incidents of "non-verified" forcible sex offenses were included in the 2003 statistics. There was no explanation as to how OSU determined that only 3 of the 22 sexual assaults reported in the back-up documentation should be included in the 2003 reported crime statistics. As explained during the review, OSU needs to have procedures that identify the particular incidents (and the source of those reported incidents) that comprise the crime statistics it reports in any particular calendar year. Therefore, OSU is directed to provide copies of its policies and procedures that explain how source documentation is used to identify instances that are reported to campus security authorities other than the campus police that are also included in the annual crime statistics that OSU reports.

In the Institution's response to the program review report of May 24, 2005, the Institution stated that it would modify its timely warning policy to evaluate the circumstances of an incident of rape or other crime where the victim and the accused know each other to determine if a threat exists to others and if a warning should be issued. The review of the OSU campus safety web site does not show that the timely warning policy has been modified. Therefore, the Institution is directed to provide a copy of the modified timely warning policy in response to this letter.

Again, I would like to express my appreciation for the courtesy and cooperation extended during the review process. Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this report. If you have any questions concerning this report, please call Herschel Wallace at (312) 886-8739.

Sincerely,

John Jaros, Jr.
Team Leader
Chicago School Participation Team

cc: Mr. John J. Biancamano
Associate General Counsel
The Ohio State University
Office of Legal Affairs, Suite 209
33 West 11th Avenue
Columbus, OH 43201-2013

Mr. Vernon L. Baisden
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Department of Public Safety
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